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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 702

RIN 3133-AE44

Capital Planning and Stress Testing – Schedule Shift

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing amendments to the regulation governing credit union capital planning and stress testing. The amendments adjust the timing of certain events in the capital planning and stress testing cycles. The revisions to the regulation become effective January 1, 2016.

DATES: The final rule is effective January 1, 2016.

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SUPPLEMENTARY INFORMATION:

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I. Background

In April 2014, the Board issued a final rule requiring capital planning and stress testing for federally insured credit unions (FICUs) with assets of \$10 billion or more.¹ Capital planning requires covered credit unions to assess their financial condition and risks over the planning horizon under both expected and unfavorable conditions. Annual supervisory stress testing allows NCUA to obtain an independent test of these credit unions under stress scenarios. By setting a regulatory minimum capital ratio under stress, the April 2014 final rule requires covered

¹ 12 CFR part 702, subpart E; 79 FR 24311 (Apr. 30, 2014). The rule refers to FICUs with assets of \$10 billion or more as “covered credit unions.”

credit unions to take corrective action before they become undercapitalized to an extent that may cause a risk of loss to the National Credit Union Share Insurance Fund (NCUSIF).

The April 2014 final rule provided several timeframes for the formulation and submission of capital plans and for the stress testing of covered credit unions. One critical date in the stress testing process is the date NCUA releases the baseline, adverse, and severely adverse economic scenarios that serve as basis for the testing. NCUA plans to base the scenarios on those developed by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the banking agencies) for their regulated institutions.² At the time the Board issued NCUA's April 2014 final rule, the banking agencies were scheduled to provide scenarios for their regulated institutions by November 15 each year.³ The banking agencies subsequently moved their scenario release dates three months later, to the following February 15.⁴ The Board believes it is important that scenarios used for credit union stress testing conform to those used by the banking agencies, both in substance and timing. The new schedule on which the banking agencies' scenarios are published, therefore, necessitates that NCUA modify its stress testing schedule.

On January 26, 2015, the Board issued a proposal to adjust the timing of certain events in NCUA's capital planning and stress testing cycles.⁵ In the proposal, the Board amended the capital planning and stress testing rule to change NCUA's scenario release date from December 1 to February 28. In addition, the Board proposed to apply a more uniform fixed annual timeline

² 78 FR 65583, 65584 (Nov. 1, 2013).

³ 12 CFR §46.5, §252.144, §252.154, and §325.204.

⁴ 79 FR 64026 (Oct. 27, 2014); 79 FR 69365 (Nov. 21, 2014); 79 FR 71630 (Dec. 3, 2014).

⁵ 80 FR 3918 (January 26, 2015)

for both capital planning and stress testing required under the rule. It also proposed to reword several provisions in the rule to clarify their meaning. The Board requested comment on all aspects of the proposal.

NCUA received eight comments on the proposal to modify the capital planning and stress testing requirements, including comments from national trade associations, a state credit union league, federal credit unions, and federally insured, state-chartered credit unions. All commenters stated that they understood the need for the rule and that it is appropriate for NCUA to be consistent with the banking agencies' capital planning and stress testing requirements.

Nevertheless, commenters objected to what they considered to be a “compressed” capital planning schedule set out in the proposal. The commenters objected on various grounds, including that the capital planning process is complex and that a credit union would need input from senior management and the credit union's board of directors on stress testing and capital planning. Further, commenters stated that an as-of date of December 31, a date which triggers numerous other reporting requirements, would result in logistical and resource allocation problems. Commenters' primary objection was that they believed the schedule would be compressed if capital plans were due on April 30 (i.e., four months after the as-of date instead of five months after the as-of date).

Seven commenters also noted that the proposed April 30 due date for capital plans is only two months after the scenario release date of February 28. These commenters contended that much capital planning activity could only begin after the scenario release date. However, capital

planning is an activity distinct from stress testing and thus a credit union subject to part 702 can and should begin its capital planning activities well before the release of the stress test scenarios. A covered credit union's capital planning should be part of long-term strategic planning formulated on the basis of the credit union's business purposes and risk exposures.

Nevertheless, the Board understands that covered credit unions may want to know what scenarios concern regulators before completing their annual capital planning process.

Accordingly, after reviewing the comments, this final rule amends the capital planning and stress testing rule in part 702 to establish a due date of May 31 rather than April 30 for covered credit unions to submit their capital plans. This change will provide covered credit unions with five months from the as-of date (and three months from the scenario release date) to prepare their capital plans, as commenters requested.

The Board acknowledges that covered credit unions may encounter resource constraints prior to putting in place independent risk management and reporting functions. NCUA also expects that some credit unions currently under the \$10 billion threshold will grow larger than \$10 billion, and the Board does not want to impose undue regulatory burden on these newly covered credit unions.

One commenter requested that the Board move the scenario release date to be earlier than February 28. However, this would not allow NCUA reasonable time to review the scenarios released by the banking agencies. The Board has therefore retained the February 28 release date.

Several commenters requested that other milestone dates in capital planning and stress testing be modified to reflect the new May 31 deadline for the capital plan submission. The Board agrees with these comments and has adjusted the revised annual capital planning and stress testing timelines in Table 1 to reflect the shift from April 30 to May 31. Each other date in the timeline is adjusted accordingly.

The following table summarizes the changes to the annual timelines provided in the capital and stress testing rule.

TABLE 1—REVISED ANNUAL CAPITAL PLANNING AND STRESS TESTING TIMELINES.

Action Required	Current Rule	Final Rule
As-of date for covered credit union’s capital plan and NCUA stress test data	September 30	December 31
NCUA releases stress test scenarios	December 1	February 28
Covered credit union submits capital plan to NCUA (incorporating credit union–run stress tests, if authorized)	February 28	May 31
NCUA provides NCUA-run stress test results to covered credit union	May 31	August 31
NCUA accepts or rejects covered credit union’s capital plan	Within 90 days of plan’s submission	August 31
Covered credit union submits stress test capital	Within 90 days of	November 30

enhancement plan, if required	receipt of test results	
Covered credit union submits revised capital plan, if required	Within 90 days of NCUA rejection	November 30
Covered credit union requests authority to conduct stress tests	July 31	November 30
NCUA approves or declines covered credit union's request to conduct stress tests	August 31	December 31

III. Regulatory Procedures

a. Regulatory Flexibility Act

The Regulatory Flexibility Act requires NCUA to prepare an analysis of any significant economic impact any regulation may have on a substantial number of small entities (primarily those under \$50 million in assets). Because this final rule only applies to FICUs with \$10 billion or more in assets, it will not have any economic impact on small credit unions.

b. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden.⁶ For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. The changes to part

⁶ 44 U.S.C. 3507(d); 5 CFR part 1320.

702 only alter the dates on which already required information is required and acted on, and do not impose any new information collection requirements. There is no new burden.

c. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has, therefore, determined that the rule does not constitute a policy that has federalism implications for purposes of the executive order.

d. Assessment of Federal Regulations and Policies on Families

NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Pub. L. 105-277, 112 Stat. 2681 (1998).

List of Subjects in 12 CFR Part 702

Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on July 23, 2015.

Gerard Poliquin

Secretary of the Board

For the reasons discussed above, the National Credit Union Administration amends 12 CFR part 702 as follows:

PART 702- CAPITAL ADEQUACY

1. The authority citation for part 702 continues to read as follows:

Authority: 12 U.S.C. 1766(a), 1790d.

2. Amend §702.502 by adding in alphabetical order the definition “Capital planning process” and revising the definition “Covered credit union” to read as follows:

§702.502 Definitions.

* * * * *

Capital planning process means development of a capital policy and formulation of a capital plan that conforms to this part.

Covered credit union means a federally insured credit union whose assets are \$10 billion or more. A credit union that crosses the asset threshold as of March 31 of a given calendar year is subject to the capital planning and stress testing requirements of this subpart in the following calendar year.

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3. Amend §702.504 by revising paragraph (a) to read as follows:

§ 702.504 Capital planning.

(a) Annual capital planning. (1) A covered credit union must develop and maintain a capital plan. It must submit this plan and its capital policy to NCUA by May 31 each year, or such later date as directed by NCUA. The plan must be based on the credit union’s financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. NCUA will assess whether the capital planning and analysis process is sufficiently robust in determining whether to accept a credit union’s capital plan.

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4. Amend §702.505 by revising paragraphs (a), (b)(5), and (d) to read as follows:

§702.505 NCUA action on capital plans.

(a) Timing. NCUA will notify the covered credit union of the acceptance or rejection of its capital plan by August 31 of the year in which the credit union submitted its plan.

(b) * * *

(5) unacceptable weakness in the capital plan or policy, the capital planning analysis, or any critical system or process supporting capital analysis;

* * * * *

(d) Resubmission of a capital plan. If NCUA rejects a credit union's capital plan, the credit union must update and resubmit an acceptable capital plan to NCUA by November 30 of the year in which the credit union submitted its plan. The resubmitted capital plan must, at a minimum, address: (1) NCUA-noted deficiencies in the credit union's original capital plan or policy; and (2) Remediation plans for unresolved supervisory issues contributing to the rejection of the credit union's original capital plan.

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5. Amend §702.506 by:

- a. Revising the first two sentences of paragraph (a);
- b. Revising paragraph (c);
- c. Removing paragraph (d);
- d. Redesignating paragraphs (e) through (i) as (d) through (h), respectively; and
- e. Revising newly redesignated paragraphs (d) through (g).

The revisions read as follows:

§ 702.506 Annual supervisory stress testing.

(a) General requirements. The supervisory stress tests consist of baseline, adverse, and severely adverse scenarios, which NCUA will provide by February 28 of each year. The tests will be based on the credit union's financial data as of December 31 of the preceding calendar year, or such other date as directed by NCUA. * * *

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(c) Credit union-run tests under NCUA supervision. After NCUA has completed three consecutive supervisory stress tests of a covered credit union, the covered credit union may, with NCUA approval, conduct the tests described in this subpart. A covered credit union must submit

its request to NCUA to conduct its own stress test by November 30 for the following annual cycle. NCUA will approve or decline the credit union's request by December 31 of the year in which the credit union submitted its request. NCUA reserves the right to conduct the tests described in this section on any covered credit union at any time. Where both NCUA and a covered credit union have conducted the tests, the results of NCUA's tests will determine whether the covered credit union has met the requirements of this subpart.

(d) Potential impact on capital. In conducting stress tests under this subpart, NCUA or the covered credit union will estimate the following for each scenario during each quarter of the stress test horizon:

(1) Losses, pre-provision net revenues, loan and lease loss provisions, and net income; and

(2) The potential impact on the stress test capital ratio, incorporating the effects of any capital action over the 9-quarter stress test horizon and maintenance of an allowance for loan losses appropriate for credit exposures throughout the horizon. NCUA or the covered credit union will conduct the stress tests without assuming any risk mitigation actions on the part of the covered credit union, except those existing and identified as part of the covered credit union's balance sheet, or off-balance sheet positions, such as asset sales or derivatives positions, on the date of the stress test.

(e) Information collection. Upon request, the covered credit union must provide NCUA with any relevant qualitative or quantitative information requested by NCUA pertinent to the stress tests under this subpart.

(f) Stress test results. NCUA will provide each covered credit union with the results of the stress tests by August 31 of the year in which it conducted the tests. A credit union conducting its own stress tests must incorporate the test results in its capital plan.

(g) Supervisory actions. If NCUA-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must provide NCUA, by November 30 of the calendar year in which NCUA conducted the tests, a stress test capital enhancement plan showing how it will meet that target. If credit union-run stress tests show that a covered credit union does not have the ability to maintain a stress test capital ratio of 5 percent or more under expected and stressed conditions in each quarter of the 9-quarter horizon, the credit union must incorporate a stress test capital enhancement plan into its capital plan. Any affected credit union operating without a stress test capital enhancement plan accepted by NCUA may be subject to supervisory actions

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[FR Doc. 2015-19526 Filed: 8/10/2015 08:45 am; Publication Date: 8/11/2015]